



Exempt Action Final Regulation Agency Background Document

Agency name	Board of Funeral Directors and Embalmers, Department of Health Professions
Virginia Administrative Code (VAC) citation	18VAC65-30-10 et seq.
Regulation title	Regulations for Preneed Funeral Planning
Action title	Conforming required disclosure to federal rule
Final agency action date	10/18/11
Document preparation date	10/19/11

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Summary

Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

Section 230 of Regulations for Preneed Funeral Planning includes the disclosures and information required to be provided to the consumer. The Board was notified by the Funeral Rule Coordinator of the Federal Trade Commission that one statement in that section was in conflict with 16 C.F.R. Section 453.2 (b) (5).

In Virginia regulation, the disclosure statement says: “Although not required to do so, some funeral homes may also choose to give you an itemized statement when you make these arrangements.” In the federal rule, the funeral provider is required to “Give an itemized written statement for retention to each person who arranges a funeral or other disposition of human remains, at the conclusion of the discussion of arrangements.” The communication from the Federal Trade Commission states further that the requirement for an itemized statement applies

with equal force to pre-need arrangements as at-need arrangements. Therefore, state regulations are in conflict with federal and may be corrected under an exemption in § 2.2-4006. *Exemptions from requirements of this article*, as “Necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation, and the Registrar has so determined in writing.”

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

On October 19, 2011, the Board of Funeral Directors and Embalmers adopted an amendment to section 230 on the content of disclosure statements in 18VAC65-30-10 et seq., Regulations for Preneed Funeral Planning.

Family impact

Assess the impact of this regulatory action on the institution of the family and family stability.

Enter statement here

Periodic review

If this final regulation is not the result of a periodic review of the regulation, please delete this entire section. If this final regulation is the result of a periodic review, please (1) summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and (2) indicate whether the regulation meets the criteria set out in Executive Order 14 (2010), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

Commenter	Comment	Agency response

Enter statement here